Morrison-Saunders, A. (1994) *Towards environmental planning: opportunities to improve environmental planning in Western Australia.* Australian Planner, 31 (4). pp. 221-226.

TOWARDS ENVIRONMENTAL PLANNING

Opportunities to improve environmental planning in Western Australia

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Please cite this paper as: Morrison-Saunders, A. 1994. Towards Environmental Planning: Opportunities to Improve Environmental Planning in Western Australia. *The Australian Planner*. **31**(4), 221-226.

Note: this paper is 4,600 words or approximately 12 pages in length.

The present system for assessing development proposals in WA requires a proponent to satisfy the requirements of at least two Acts of Parliament (*Environmental Protection Act 1986* and *Town Planning and Development Act 1928*) and several statutory authorities. These assessments are separate and their intent and requirements may sometimes be in conflict. This can create unnecessary delays and duplication of effort in the assessment and approval of development projects.

This paper suggests ways to improve the efficiency and effectiveness of existing planning and environmental assessment procedures in WA to ensure that sound environmental planning, incorporating adequate public involvement, results. Specific objectives of the research were to:

- determine the feasibility of a combined single or parallel environmental planning assessment process; and
- to identify ways to reduce the number of individual proposal assessments.

The study was funded by a State Planning Commission Graduate Scholarship Research grant. This paper presents the key findings of the study. Further details can be found in Morrison-Saunders (1993). The research involved an examination of over forty mainly local publications plus interviews and a questionnaire survey of key planning and environmental professionals in WA.

Current assessment processes

Planning and environmental assessment processes in WA have been well described previously (eg. Bailey and English, 1991; Carbon, 1992; Hipkins, 1989; Wood and Hillier, 1992) and it is not intended to duplicate that work here. However, a summary of some features of each process is necessary to place the study findings in context.

PLANNING PROCEDURES

Land use planning procedures and the responsible administrative and decision-making departments in WA are established under two principle acts. The *Town Planning and Development Act 1928* was established to control and direct development in WA. The Act also contains provisions for the creation and implementation of Town Planning Schemes (TPS) by local government. The *State Planning Commission Act 1985* established the State Planning Commission (SPC) which is the decision-making authority for planning matters in WA. The purpose of the SPC is to:

- guide and manage land use planning and urban, rural and regional development; and
- to administer and review planning and regulatory systems to achieve this (SPC 1991).

The Department of Planning and Urban Development (DPUD) was created in 1989 and operates two programmes. The planning programme encourages the most appropriate use of land throughout WA, having regard to social, economic and environmental considerations. The urban development programme ensures an adequate supply of urban land and suitable development to accommodate anticipated demand and pressure (DPUD 1990).

Planning functions in WA can be divided into two main roles: planning for the future of the state (strategic planning) and administration of the planning system or development control (statutory planning).

Strategic planning is conducted on a regional basis to provide for the development of an area based on projected future population and economic growth, whilst (recently) taking natural environment and heritage values into account. Many different types of strategic plans are produced in WA including regional plans, policy statements, structure plans, rural strategies, coastal plans and planning policies. Preparation of these plans usually entails a draft document for public comment followed by a final document.

Owing to its legal basis, statutory planning tends to be narrower in focus than strategic planning functions, being confined to either a specific locality for which legislation has been prescribed or relating to procedural requirements. Statutory planning functions include statements of planning policy which are legally binding and subdivision and development control procedures. Unlike the situation in other States where local governments are responsible for subdivision and development approvals, this role is undertaken by the SPC and DPUD in Western Australia.

ENVIRONMENTAL PROCEDURES

Environmental assessment and protection procedures in WA are established under the *Environmental Protection Act 1986*. The Act has strong legislative powers and overrides virtually all other legislation in WA. The Act is administered by the Environmental Protection Authority (EPA) which consists of a five person authority to advise the Government on development proposals and a department of staff responsible for research, investigative and administrative support.

The EPA undertakes three main functions and roles; environmental impact assessment, preparation of environmental protection policies and pollution control (the latter has little bearing on environmental planning and is not considered further here).

Environmental impact assessment (EIA) is initiated by the referral to the EPA of any proposal which would be likely to have a significant effect on the environment. Once a proposal has been referred to the EPA relevant Decision-Making Authorities (DMA's) cannot allow implementation until authorised to do so by the EPA or Minister for Environment. The EPA determines whether to informally or formally assess referred proposals. Informal assessment applies to proposals with little or no likely adverse environmental effects. In this case, the EPA simply provides advice (not legally binding) to the relevant DMA who resumes responsibility for the proposal.

For formally assessed projects an environmental impact document is required which is available for public review. Any comments received are summarised by the EPA for the proponent to respond to as they see fit which may result in modifications to the original proposal. The EPA prepares a report on the proposal which includes recommendations for any environmental conditions that should apply. The Minister for Environment consults with the Ministers of the relevant DMA's to determine the final conditions under which the project may be implemented (if at all). These conditions are legally binding, although provision exists for the proponent to appeal against them.

Environmental protection policies (EPP's) are formulated by the EPA and approved by the Minister for Environment upon which they have the force of law. Typically an EPP will be prepared for a particular region or portion of the environment and will identify the beneficial uses for that area and specify the environmental quality objectives to be achieved and maintained to protect those beneficial uses.

Towards environmental planning

The concept of environmental planning is a relatively new one and to date no formal procedures have been established in WA. Recently, Singleton (1992) has defined environmental planning as going beyond the human constructs of traditional town

planning functions to embody concern for the interests of non-human life. He provides examples of environmental planning in the planning and development of the Swan Coastal Plain on which the city of Perth is situated.

In reviewing the available literature on planning and environmental assessments in WA and surveying key professionals in these fields, a number of strengths and opportunities for the further development of environmental planning were identified including:

- establishment of a parallel planning and environmental assessment process;
- ways to avoid unnecessary delays and uncertainties in development approvals;
- ensuring adequate public input to decision making;
- formulation of planning and environmental policies;
- use of class assessment, environmental codes of practice, and environmental guidelines and strategies to reduce the need for individual assessments; and
- greater emphasis on a regional planning approach.

PARALLEL PLANNING AND ENVIRONMENTAL ASSESSMENT PROCESS

A predominant view of the study participants was that separate planning and environmental departments should be maintained. Whilst it was acknowledged that each department performed a similar role and operated a similar process, the view was clearly stated that planning and environmental issues were fundamentally different and hence should be dealt with under separate procedures. Hipkins (1992) and Dixon (1992) also state that the planning process has failed to pick up new issues such as environmental considerations and social impacts and hence a separate environmental process is justified.

In 1992, 11 projects out of approximately one hundred projects formally assessed by the EPA and several thousand planning projects referred to DPUD were assessed by both agencies (R Sippe, EPA, pers. comm. 1993) This small overlap does not in itself warrant a merging into a single assessment body as this would adversely affect the vast majority of development proposals each year currently handled exclusively by each of the separate departments. However, where individual assessments are required and an overlap between planning and environmental issues occurs, a parallel assessment process should be employed.

Standard procedures for parallel planning and environmental assessment can be developed through a "Memorandum of Understanding" approach without the need for new or revised legislation. The process should be clearly defined for the benefit of each department involved, proponents of development and the public. Project documentation could then be limited to a single document which satisfies the individual requirements of each department thereby avoiding documentation duplication by the proponent.

Similarly, a single combined public review process could result thereby avoiding unnecessary duplication of effort and confusion on behalf of the public.

AVOIDING DELAYS AND UNCERTAINTIES IN DEVELOPMENT APPROVALS

During this study, participants indicated the need, as often expressed to them by proponents, for assessment procedures to be modified and undertaken in such a way that unnecessary delays and uncertainties in obtaining development approvals are avoided.

A primary consideration is to avoid unnecessary project assessment in the first place. This means that each agency should only assess issues of significance to its functions and these should be clearly defined for the benefit of other agencies, project proponents and the public. Environmental issues, for example, can be considered to be either "negotiable" or "non-negotiable", where a non-negotiable issue represents a potential or real impact upon any element of a life support system which threatens the system (Singleton 1990). The EPA should only formally assess projects affecting non-negotiable issues and should rigorously defend the environment in these cases. Negotiable issues or those of lesser importance should be delegated to other appropriate agencies to avoid duplication of effort by separate departments (eg. issues of planning concern but low environmental significance should be assessed by DPUD alone, and planning issues of local significance only should be delegated to Local Government for assessment).

Project proponents and the public would benefit from more clearly defined explanations of project assessment processes which outline the roles of assessment agencies, proponents and public alike as well as provide timelines for each component of the assessment process. While both the planning and environmental assessment processes have had specified referral, public consultation and appeal periods, this has not guaranteed that approvals will be granted within a specified time frame. In response to this criticism, the EPA has recently adopted a timeline approach whereby at the outset of a new assessment, a fixed timeline is prepared outlining maximum time requirements for each component of the assessment process. EPA staff participating in this study indicated that this modification to the environmental assessment process is proving to be successful both for the EPA and project proponents.

A common concern expressed about the EPA's assessment process during this study was the lack of direction provided to developers by the EPA. The onus is on the developer to demonstrate that their project is environmentally acceptable with little guidance or advice by the EPA on how to achieve this. Meagher (1991) states that this creates an unacceptable level of uncertainty in the EPA's assessment approach. The environmental assessment process would be improved by the EPA making a greater use of a prescriptive approach to environmental protection. This is a consistent and positive feature of the planning

assessment process by way of region plans and policies prepared by DPUD which developers can refer to and accommodate.

Whilst there are a number of benefits of the current EPA approach whereby proponents are free to design their projects as they see fit and are not dictated to by the EPA, it would not be unreasonable for the EPA to provide a clearer indication of their expectations and requirements of the environmental quality standards to be attained. This could be provided on a regional basis (eg. for particular ecosystems, habitats, catchments etc.) as demonstrated in EPA (1988) or for particular types of development.

Avoiding unnecessary development assessments in the first place plus clarification of assessment processes and the expectations of decision-makers would all minimise the delays and uncertainties in planning and environmental approval processes currently experienced.

PUBLIC INPUT TO DECISION MAKING

Adequate public consultation during planning and environmental assessments is important. Poor community involvement in the decision-making process may result in public backlash at the point of development resulting in the need for political intervention to resolve the issues. This is clearly undesirable in a rational assessment process as decisions made about a particular project on political grounds may negate important planning or environmental principles.

Dixon (1992) notes that it is important that the public are not simply informed of development projects and invited to comment on them, but to know that their opinions and concerns are incorporated into project decision-making. The content of public submissions should be included in project assessment reports and final reports (eg. region plans) so that the public can clearly identify their role and input to the decision-making process. While the EPA does this as a standard procedure, this process has not been adopted by DPUD. All decision approval documentation should be publicly available with reasoning or justification provided on how decisions were reached.

PLANNING AND ENVIRONMENTAL POLICIES

Currently both DPUD and the EPA prepare regional policies which when implemented are legally binding and represent State Government policy.

The early approach adopted by the EPA to manage constraints on land use via EPP's tended to be prescriptive of behavioural controls, very detailed and 'standards driven'. More recently they have tended to be 'objective driven' (Carbon 1992) and operate by setting directions for implementation through other mechanisms such as Statements of

Planning Policy. For example, the SPC Statement of Planning Policy No. 2 (WA Government 1992) is one of the principal mechanisms for achieving the objectives of the EPA's Peel-Harvey Estuarine System EPP (EPA 1992a). There are two main advantages of this approach:

- environmental objectives are established early in the planning process enabling State and Local Government planning authorities and departments as well as private developers to plan landuse developments accordingly and thereby avoid delays and costs associated with environmental assessment when project planning is at an advanced stage; and
- planning agencies and developers have a clear environmental standard or objective to meet but determine the means of how to design and manage their own projects to achieve this themselves, thereby enabling a flexible approach.

While the co-operative approach of each department preparing complimentary policies for the same region has been praised by participants in this study, it would be easier for developers, assessment agencies and the public if these policies were amalgamated into a single reference document.

A number of criticisms have been levelled at the policies prepared for the Peel-Harvey region (EPA, 1992a; WA Government, 1992) including the notion that due to incompatibilities in the separate policies, it would be impossible to propose a development that would satisfy the stated objectives (Mortlock 1992). This implies that the co-operative approach has not been as successful as the participating departments indicate.

Another comment about existing policies is that they take a predominantly negative approach in that the policies are regulatory or set limits on what developers can do. What is needed are more positive policies that direct developers and assessment agencies into best management practices, not just limiting the use of poor practices (Mortlock 1992). Effective implementation of planning and environmental policies also requires the back up support of useful guidelines on how to achieve this.

Providing that these concerns are addressed, regional planning and environmental policies have the potential to significantly improve the project assessment process by specifying environmental and planning needs in advance, thereby enabling developers to model their projects to address these concerns from the outset. Presentation of appropriately modelled projects to assessment authorities will reduce the time and resources required for assessment and number of conditions set.

CLASS ASSESSMENT

Class assessment is an assessment tool that refers to the establishment of conditions for proposals in a defined or prescribed class which can be addressed as a generic group. Where a regional policy tends to focus on the nature of the region or environment itself, a class assessment focuses on the nature of the proposal.

The advantage of class assessment is that only one proposal of a generic group is subject to individual assessment, with conditions for that type of proposal being developed which can be applied as a model for that class of proposal. Class assessments could be applicable to a particular type of development (eg. offshore petroleum exploration) or to certain land-use activities in a particular environment (eg. rural-residential/urban subdivision in the Peel-Harvey Estuary or Gnangara Water Mound catchments). In a recent review of the *Environmental Protection Act 1986* it was recommended that the EPA should be empowered to establish a 'class assessment' process for proposals which fall within a generic group (Independent Advisory Committee 1992).

Currently, some rewording of Part IV of the *Environmental Protection Act 1986* would be required to allow for class assessments although the power to delegate powers or duties to any public authority, officers of the Department or any other person does exist.

Having specified environmental conditions for each class, the assessment of individual proposals covered by the class can be formally delegated (eg. undertaken through the planning process) subject to the conditions. This would allow for faster and more efficient assessment of projects whilst still allowing for public review and appeals and for an appropriate level of environmental protection to be attained.

This process implies that the EPA would be pro-active in identifying development proposals suitable for class assessment based upon repetition of individual project assessments of a similar nature. An alternative view expressed during one of the interviews for this research was that a DMA should identify developments suitable for class assessment and submit to the EPA as the proponent a formal 'class assessment proposal' for environmental assessment. Any conditions established would be legally binding on the DMA and that authority would be directly responsible for ensuring compliance. The advantage of this approach would be that it is driven by development rather than by the EPA. As for existing environmental assessments, the onus would be on developers via the relevant DMA to determine themselves how to make their projects environmentally acceptable.

Class assessments could equally be developed for planning assessment and approval as for environmental processes discussed previously. BSD Consultants (1992) have identified over 20 state government agencies to whom subdivision proposals may have to

be referred for comment and/or approval, many of which have the potential to delegate responsibilities for decision making to DPUD or local government. Aside from any legislative considerations that may require attention, this delegation process could be achieved through class assessments being established for the particular role or responsibilities of the individual government agencies.

ENVIRONMENTAL CODES OF PRACTICE

A series of Environmental Codes of Practice have been issued by the EPA applicable to various industrial activities (eg. rendering plants, cement product manufacturing works, extractive industries - plus many others). In the foreword to these codes, it is stated that they are advisory and educational and are intended to encourage a strong environmental ethic within industry. They are not intended to be regulations or encroach on any other areas of legislative responsibility.

The Environmental Codes are prepared with the help of other government agencies and industry with the aim of producing a workable code with emphasis on reasonably practicable available technology to prevent pollution. The Codes may also include advice to planning authorities on acceptable land uses in the vicinity of certain industries. For example, in the Environmental Code of Practice for the Poultry Industry (EPA 1991), new residential zones within 500m and rural-residential zones within 300m of any existing poultry sheds is not supported.

An Environmental Code of Practice can be applied to the prescribed industry irrespective of location. However, it is stated that a particular code can be applied in a relaxed manner if the industry is a reasonable distance from housing or other sensitive land uses, and should be diligently adhered to if near such land uses (EPA 1991).

ENVIRONMENTAL GUIDELINES AND STRATEGIES

In a similar manner to the preparation of Codes of Practice the EPA has occasionally prepared environmental guidelines and strategies. An example of environmental guidelines are the Dust Control Guidelines (EPA 1990) which aim to reduce the potential dust risk at development sites. The guidelines specify maximum acceptable dust levels at any site boundary, outline preferred dust control techniques, and describe procedures for the assessment of dust risk potential and site classification ratings.

Environmental strategies are intended to be succinct statements of the need to protect portions of the environment from pollution and to suggest standards by which this can be achieved (Independent Advisory Committee 1992). To date only one environmental strategy has been prepared which seeks to eliminate faecal pollution of rivers (EPA 1992b). The strategy applies to wastewater treatment plants and piggeries, which are

licensed under the *Environmental Protection Act 1986* that discharge unacceptable amounts of faecal contaminated wastewater . These industries are required to cease discharge by a prescribed date and to prepare a plan for the EPA showing how they will achieve this.

The advantages of the environmental guidelines and strategy approach described here include:

- equal application to the relevant industries and developments on a class assessment basis, thereby eliminating the need for individual assessment;
- the desired environmental goal is stated and guidance provided for the preferred means of achieving each goal, but the proponent maintains control of their project and is not bound by a prescribed procedure that must be followed; and
- strategy and guideline documents are subject to a public review process, enabling affected persons to have input to the final product.

What distinguishes between the two approaches is that the Dust Control Guidelines apply to all developers and potential future developers while the Elimination of Faecal Pollution of Rivers environmental strategy applies to a prescribed list of existing industries.

REGIONAL PLANNING

The notion of strategic regional planning was highly praised by the participants in this study. Regional planning is essential to meet development demands and to protect important social and environmental resources in a pro-active rather than reactive approach. Whilst there is a strong tradition of strategic and regional planning in WA, the large variety of different document types is confusing. Regional planning documents should be either simplified by means of adopting one or two types only, or clarified by means of inclusion of a flow chart of the hierarchy of regional plans within each document. The link between regional plans and local plans also needs to be clearly defined.

The boundaries for regional plans should take into consideration natural environmental or ecological units as well social and political boundaries. Environmental and planning considerations utilising the regional assessment approaches outlined previously should be incorporated into regional plans wherever possible to minimise the requirement for individual assessments during the subsequent preparation of local plans and development approvals.

Conclusion

In summary, this paper has identified a number of opportunities for environmental planning to be more formally identified and adopted in WA so as to improve on current

planning and environmental assessment processes. First, where the current processes overlap, a parallel assessment process between the EPA and DPUD which meets the requirements of both departments and provides for a single development document and public review process would avoid unnecessary duplication. Second, formal assessments should only be undertaken on projects affecting significant or non-negotiable issues with guidelines provided to clarify both the assessment process and the expectations of each agency. Third, adequately incorporating public involvement into the assessment processes will avoid delays associated with last minute community backlash against developments and the need for political intervention. Fourth, combining planning and environmental policies for a particular region into a single document with guidelines for their implementation and emphasis on positive management practices will enable better project design from the outset. Fifth, the number of individual planning and environmental assessments can be minimised by increased use of class assessment, environmental codes of practice, environmental guidelines and strategies. These will allow for more efficient assessment of projects whilst still providing for public review and sound environmental planning principles. Sixth, an increased emphasis on strategic regional planning is necessary to meet development needs in a pro-active manner whilst preserving important social and environmental resources.

From the examples presented in this paper, it is clear that the scope already exists for this environmental planning approach to be adopted in WA with little or no legislative or departmental change required. Such an approach would benefit developers, assessment agencies and the public alike in terms of time and cost savings. Important environmental and social resources would also be better protected by the increased emphasis on regional and longer term assessment processes.

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ACKNOWLEDGMENTS

I wish to acknowledge the State Planning Commission for providing the research scholarship and the opportunity to undertake the study and all of the study participants who willingly gave their input.